

REMARKS

In the Office Action mailed on September 12, 2007, the Examiner rejected claims 1-3, 17-19 and 33 under 35 U.S.C. 102(c) as being anticipated by U.S. Patent Publication No. 2002/0184638 to Agnihotri et al.; rejected claims 4, 6-16, 20 and 22-32 under 35 U.S.C. 103(a) as being unpatentable over Agnihotri et al. in view of U.S. Patent Publication No. 2003/0237097 to Marshall et al. to Davis et al. and rejected claims 5 and 21 under 35 U.S.C. 103(a) as being unpatentable over Agnihotri et al. and Marshall et al. in view of U.S. Patent No. 6,637,027 to Breslauer et al.

In response, Applicant has amended independent claims 1, 4, 5, 17 and 33. No new matter has been added.

In rejecting claims 1, 17 and 33, the Examiner asserts Agnihotri et al. teach broadcasting a request from a requesting DVR to a plurality of networked DVRs in paragraphs [0025] and [0029]. Applicant disagrees. Resource sharing server 130 receives the request for available resources. See paragraph [0039] ("When resource sharing server 130 receives a resource availability request ..."). Thus, the request in Agnihotri et al. is unicast from a single DVR to the resource sharing server 130 and not broadcast to a plurality of networked DVRs as presently claimed.

Applicant has further differentiated claims 1, 17 and 33 by adding language that the response from at least one dormant DVR is an answer to the request. Thus, in order for a dormant DVR to reply, it must receive the request. Since the request is only received by resource sharing server 130, it follows that any potentially dormant DVR in Agnihotri et al. cannot issue a response to a request it never receives.

With respect to claims 4 and 20, Applicant has amended claim 4, claim 20 already recites this clearly, so that the tuning by the granting DVR is in response to the requesting DVR. This is not what is taught in paragraph [0016] of Marshall et al. Instead, Marshall et al. describe forwarding **past** programs already stored on one PVR to another PVR. (emphasis added). Thus, in Marshall et al., the tuning is determined by the user of the one PVR devoid of any input from any other PVRs. If one PVR happened to record a program last week that another PVR wants, Marshall et al.'s invention can allow that transfer. However, if one PVR needs to use additional resources at the present moment, Marshall et al. does NOT allow that one PVR to seek out those additional resources from other PVRs.

In rejecting claim 14 and 30, the Examiner asserts Agnihotri et al. teach commands from the requesting DVR to the granting DVR in paragraph [0030]. This is incorrect. Agnihotri et al. describe commands from a remote control and not a requesting DVR in paragraph [0030].

In rejecting claim 5, the Examiner asserts Agnihotri et al. describes advising the requesting DVR that said access is not available in paragraph [0039]. Applicant disagrees. Nowhere in paragraph [0039] is accessibility of a particular channel discussed. Paragraph [0039] describes determining which DVR is available to perform a task based on video playback device (VPD) data files 401, 402 and 403. VPD data files only store information related to a DVR's a) recording schedule, b) disk statistics (e.g., how much free space is available for recording new material) and c) network address. A VPD data file does not indicate which channels a DVR has conditional access to receive.

In addition, the Examiner asserts that Breslauer teaches one DVR advising a second DVR that it does not have access to a particular channel in column 8, lines 20-28 and column 9, lines 57-63. Applicant disagrees. Nowhere in these passages does Breslauer et al. describe any interaction between two devices. It appears a single device is determining if access can be granted for a particular piece of content in Breslauer et al.'s column 8, lines 20-28 and column 9, lines 57-63. Thus, there is no advising going on from one DVR to another.

Finally, the Examiner asserts that it is well known in a peer-to-peer sharing network to allow intermediate storage by one device in that network. The Examiner does not cite to any specific references in either Agnihotri et al. or Marshall et al., or any other reference for that matter, to support this conclusion of what is well known in the art. Applicant respectfully requests that the Examiner provide support for this conclusion from the prior art. In addition, Applicant also asserts intermediate storage does not address the problem of not having access to a particular channel. Intermediate storage may solve a disk space problem, but it cannot by itself, solve an access problem.

Claims not specifically mentioned above are allowable due to their dependence on an allowed claim.

CONCLUSION

No additional fees are due for this response beyond those for a Petition for a Three (3) Month Extension of Time. However, the Office is authorized to charge any additional fees or underpayments of fees (including fees for petitions for extensions of time) under 37 C.F.R. 1.16 and 1.17 to account number 502117. Any overpayments should be credited to the same account.

Applicant respectfully requests reconsideration of the present application, withdrawal of the rejections made in the last Office Action and the issuance of a Notice of Allowance. The Applicant's representative can be reached at the below telephone number if the Examiner has any questions.

Respectfully submitted,

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Date